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9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 PATRICK HOELCK, an individual,

13 Plaintiff,

14 v.

15
16 GOW MEDIA, LLC, a Texas limited
17 liability company; and DOES 1-10,
18 inclusive,

19 Defendants.
20

Case No.:

PLAINTIFF'S COMPLAINT FOR
COPYRIGHT INFRINGEMENT

JURY TRIAL DEMANDED

21 Plaintiff, Patrick Hoelck ("Plaintiff"), by and through its undersigned
22 attorneys, hereby prays to this honorable Court for relief based on the following:

23 **JURISDICTION AND VENUE**

24 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., §
25 101 *et seq.*
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27
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1 every violation of Plaintiff's rights and the damages to Plaintiff proximately caused
2 thereby.

3 **CLAIMS RELATED TO PLAINTIFF'S PHOTOGRAPH**

4 8. Plaintiff is a renowned photographer noted for, among other things, his
5 iconic celebrity portraits, magazine covers, and editorial images.

6 9. Plaintiff created the photograph of iconic rap star and entertainment
7 mogul, Ice Cube, that is the subject of this dispute in 2006 and has titled it rm142 (Ice
8 Cube series) (the "Photograph"). An image of the Photograph is shown below.

9 10. Plaintiff is the owner of the Photograph which was registered with the
10 United States Copyright Office before the infringement at issue.

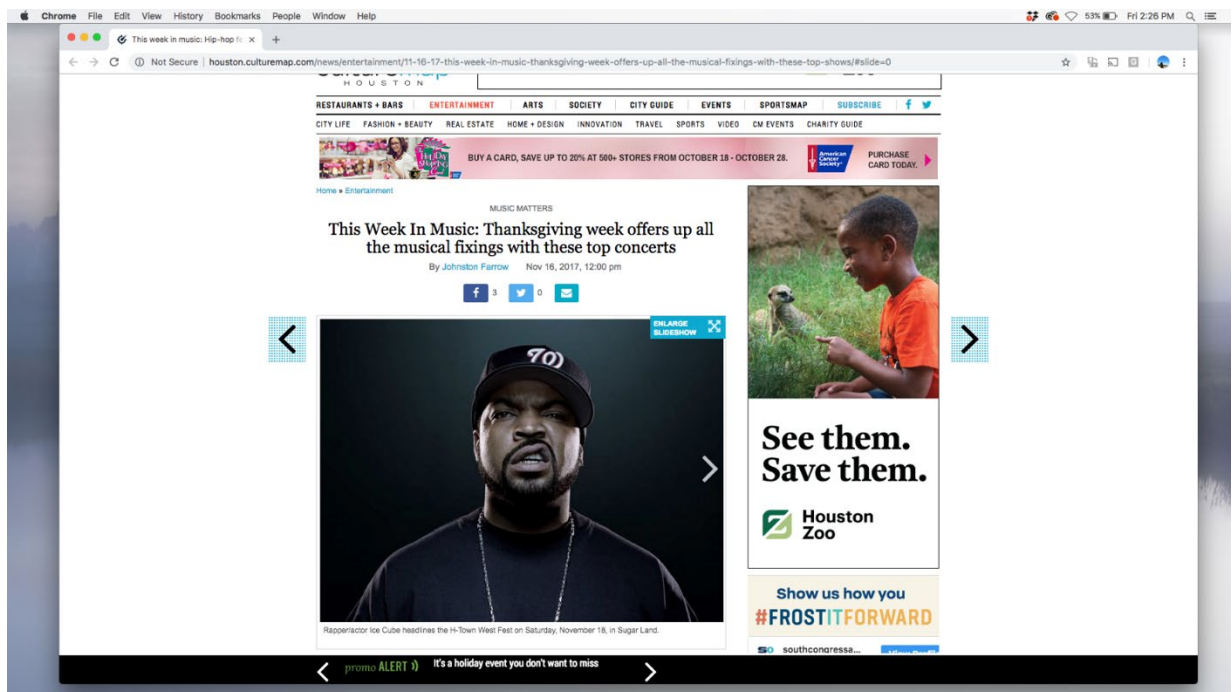
11 11. Plaintiff is informed and believes and thereon alleges that Defendants,
12 and each, own and operate websites "Culture Map" websites, including, a website for
13 www.houston.culturemap.com where they post stories, images and other content
14 regarding cultural events.

15 12. Plaintiff's investigation revealed that Defendants, and each, were
16 displaying the Photograph on their website, houston.culturemap.com (at
17 [http://houston.culturemap.com/news/entertainment/11-16-17-this-week-in-music-
18 thanksgiving-week-offers-up-all-the-musical-fixings-with-these-top-shows/#slide=0](http://houston.culturemap.com/news/entertainment/11-16-17-this-week-in-music-thanksgiving-week-offers-up-all-the-musical-fixings-with-these-top-shows/#slide=0)),
19 without Plaintiff's authorization. Defendants do not have and never have had
20 authorization to use the Photograph. A true and correct copy of the Photograph and a
21 true and correct screenshot of Defendants' infringing use of the Photograph on
22 houston.culturemap.com are shown below:
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Plaintiff's Photograph



Defendants' Infringing Use



FIRST CLAIM FOR RELIEF

(For Copyright Infringement – Against all Defendants, and Each)

13. Plaintiff repeats, re-alleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

14. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Photograph, including, without limitation, through viewing the Photograph on the World Wide Web.

15. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, used and displayed the Photograph on houston.culturemap.com at <http://houston.culturemap.com/news/entertainment/11-16-17-this-week-in-music-thanksgiving-week-offers-up-all-the-musical-fixings-with-these-top-shows/#slide=0>.

16. The screenshot of Defendants' of infringing use of the Photograph pictured above is non-inclusive, and allegations and claims made herein are made as to any and all uses, exploitations, and product that incorporate, use or bear the Photograph or unlawful derivations thereof.

17. Plaintiff is informed and believes and thereon alleges that the photograph of Ice Cube used by Defendants and shown above, uses the same elements, composition, colors, arrangement, subject, lighting, angle, and overall appearance of the Photograph and are identical or at least substantially similar to the Photograph.

18. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's copyright by publishing and displaying the Photograph to the public, including without limitation, on houston.culturemap.com.

19. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's rights by copying and displaying the Photograph, without Plaintiff's authorization or consent.

1 the Defendants, and each of them, through their infringement, the exact
2 sum to be proven at the time of trial, and, to the extent available,
3 statutory damages as available under the 17 U.S.C. § 504, 17 U.S.C.
4 §1203, and other applicable law.

- 5 c. That a constructive trust be entered over any revenues or other proceeds
6 realized by Defendants, and each of them, through their infringement of
7 Plaintiff's intellectual property rights;
- 8 d. That Plaintiff be awarded its attorneys' fees as available under the
9 Copyright Act U.S.C. § 101 et seq.;
- 10 e. That Plaintiff be awarded his costs and fees under the statutes set forth
11 above;
- 12 f. That Plaintiff be awarded statutory damages and/or penalties under the
13 statutes set forth above;
- 14 g. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 15 h. That Plaintiff be awarded the costs of this action; and
- 16 i. That Plaintiff be awarded such further legal and equitable relief as the
17 Court deems proper.

18 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
19 38 and the 7th Amendment to the United States Constitution.

20
21 Respectfully submitted,

22 Dated: December 4, 2018

23 By: /s/ David Shein
24 Stephen M. Doniger, Esq.
25 David Shein, Esq.
26 DONIGER / BURROUGHS
27 Attorneys for Plaintiff
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